

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Applications of)	
)	
NO WIRE, LLC)	FCC File Nos. 9509289, 9509294, 9509048,
)	9509304, 9509305, and 9509279
to Provide 39 GHz Point-to-Point)	
Microwave Radio Service)	

ORDER ON RECONSIDERATION

Adopted: April 6, 2000

Released: April 10, 2000

Before the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. The Public Safety and Private Wireless Division (Division) has before it a consolidated petition for reconsideration (Petition) filed by No Wire, LLC (No Wire) on September 24, 1999. No Wire requests reconsideration of six letters from the Division's Licensing and Technical Analysis Branch (Branch) dated August 26, August 27 and August 31, 1999, dismissing the above-captioned applications for authorization to provide service in the 38.6 to 40.0 GHz (39 GHz) band.

2. We have analyzed the Petitions and find that the Commission staff properly decided the matters raised. The Petitions are devoid of any evidence that the Branch's actions were inconsistent with Commission precedent or policy. In this regard we note that the Commission established and affirmed a processing policy concerning 39 GHz channels that includes the dismissal of (a) applications that failed to meet the thirty-day public notice requirement as of November 13, 1995; (b) all new applications, major modification applications and amendments filed on or after November 13, 1995; and (c) applications whose mutual exclusivity was not resolved by December 15, 1995 and amendments resolving mutual exclusivity that were filed on or after December 15, 1995.¹ In addition, the Commission's Rules provide for the dismissal of mutually exclusive applications and late-filed competing applications.² Our review of the Petitions and the Branch letters that were the subject thereof indicate that the Branch's actions with respect to the subject applications were consistent with and pursuant to the Commission's 39 GHz processing policy. Therefore, we uphold the staff decision for the reasons stated therein, and find no reason to disturb it.

3. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the

¹ See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Report and Order and Second Notice of Proposed Rulemaking*, ET Docket No. 95-183, 12 FCC Rcd 18600, 18639-97 ¶¶ 83-97 (1997); *aff'd* Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Memorandum Opinion and Order*, 14 FCC Rcd 12428, 12440-51 ¶¶ 19-44 (1999).

² See 47 C.F.R. § 21.31 (b)(2)(i) (1995); 47 C.F.R. § 101.45(b)(2)(i) (disposition of mutually exclusive applications). See also 47 C.F.R. § 1.934 (dismissal of defective applications).

Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by No Wire, LLC, on September 24, 1999, IS DENIED.

4. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau